

NEWS RELEASE



Attorney General Edmund G. Brown Jr.
California Department of Justice
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Brown Sues Janitorial Companies For Exploiting Workers

LOS ANGELES—California Attorney General Edmund G. Brown Jr. and California Labor Commissioner Angela Bradstreet today sued two janitorial companies for exploiting their employees and committing “flagrant violations” of California’s basic wage and hour laws. The two offices have joined forces to collect these unpaid wages, thereby both helping the workers and sending a strong message that California’s labor laws must be obeyed.

“These janitors toiled for long, hard hours and their paltry compensation was far below the legal minimum,” Attorney General Brown said. “Such flagrant violations of basic labor laws will not be tolerated,” Brown added.

California alleges that the janitorial companies, Excell Cleaning & Building Services and MO Restaurant Cleaning Services, paid below minimum wage, did not pay overtime, denied rest and meal breaks and did not provide itemized wage statements. Both companies conducted business in Counties including Los Angeles, San Diego and Orange. MO Restaurant Cleaning is currently suspended by the Franchise Tax Board and is not authorized to do business in California. Excell employs approximately 300 janitors to clean California chain restaurants and bars.

During an investigation by the Employment Development Department and the Labor Commissioner, officials interviewed approximately twenty Excell employees and found that company’s janitors were working 8 ½ to 10 hour night-shifts without breaks, seven days per week, for a flat sum of \$50 per day. Investigators determined that the company owed these workers approximately \$585,000 in overtime, minimum wage and compensation for denied rest breaks.

Investigators also discovered that Excell was misclassifying its janitorial workers as “independent contractors,” rather than employees, to avoid \$247,000 in payroll tax and mandatory social security and Medical contributions.

The janitors began work between 11:30 p.m. and midnight and were required to work all night until 8:30 a.m. or longer. They were paid a flat rate of \$50 regardless of how many hours were actually worked. Some janitors were paid with checks that bounced.

As a result of this payment scheme, janitors were given less than the legal minimum wage and did not get mandatory overtime, including double-time pay. Workers were also not allowed to take rest breaks and meal periods as required by California law.

The labor commissioner and the attorney general bring this lawsuit to recover unpaid wages, get the companies to stop their unlawful practices and get them to pay restitution to the exploited workers. Some of the penalties and denied payments include:

- Failure to pay in excess of \$700,000 in wages
- Failure to pay at least \$500,000 in minimum wages
- Penalties of at least \$100,000 for violating minimum wage laws
- A penalty of at least \$100,000 for denying up to \$50,000 in overtime including double-time
- Penalties and restitution for denying payment upon termination
- At least \$300,000 in penalties for not providing itemized wage statements
- Penalties and back wages for denying meal and rest breaks
- Penalties and back wages for writing paychecks with insufficient funds

In addition to the penalties and restitution for these labor violations, California seeks penalties and restitution for violations of Business and Professions Code 17200 which bars companies from engaging in unlawful, unfair or fraudulent business practices. Courts assess a civil penalty of \$2,500 for each violation proved at trial.

The attorney general enforces California laws that require fair business practices in order to protect working men and women and ensure a level playing field where all businesses adhere to the same rules of conduct.

Last month, Attorney General Brown filed an unfair competition lawsuit against Brinas Corporation, a drywall contractor in Los Angeles which was fueling the underground economy by paying workers below minimum wage and off the books. In November, Brown also sued PacifiStaff, a Los Angeles-based company, for teaching construction companies how to avoid providing state mandated workers' compensation benefits that protect employees who are injured on the job.

Excell is a Delaware corporation with its corporate office located in Houston Texas. The company is registered with the California Secretary of State and its California business address is in Santa Ana. Its CEO is Essam Omar. MO Restaurant, suspended by the Franchise Tax Board in April 2007, has the same Houston address as Excell. In March, Excell agreed to pay \$278,483 in back wages to 166 janitors in Houston after a U.S. Department of Labor investigation found that the company failed to pay overtime, in violation of the federal Fair Labor Standards Act.

The Division of Labor Standards Enforcement, led by Labor Commissioner Angela Bradstreet, is authorized to enforce the California Labor Code. The commissioner adjudicates wage claims, investigates discrimination and public works complaints, and enforces state labor law and Industrial Welfare Commission wage orders.

Janitorial workers perform heavy cleaning duties such as washing walls and glass, cleaning floors, shampooing carpets and emptying trash and rubbish containers. Janitors may perform routine maintenance work and tend to furnaces and boilers. According to the California Employment Development Department, there were approximately 229,900 janitors and cleaners employed in California in 2004.

The state's lawsuit, filed today in Los Angeles Superior Court, is attached.

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